

April 5, 2001

Honorable Norman K. Ferguson, Senate Chair
Honorable William R. Savage, House Chair
Joint Standing Committee on Utilities and Energy
115 State House Station
Augusta, ME 04333

Re: LD 1333, An Act to Permit Consumer-owned Water Utilities to
Exercise Local Control Regarding Matters within the Jurisdiction of
the Public Utilities Commission

The Commission will testify in support of LD 1333, An Act to Permit Consumer-owned Water Utilities to Exercise Local Control Regarding Matters within the Jurisdiction of the Public Utilities Commission. The Commission will be present at the work session and will be pleased to work with the Committee as it considers this bill.

The Commission has long favored eliminating, in whole or in part, Commission regulation of publicly owned water utilities. As long ago as 1993, we introduced a bill that would accomplish this change. However, we recognize that many water utilities do not support mandatory deregulation. With that in mind, we have concluded that optional self-regulation is a reasonable way to accomplish many of the benefits that would occur by eliminating Commission regulation, while affording some companies the assistance and protection that they seek from us.

Commission regulation of publicly owned water utilities is, in our view, unnecessary. A utility should not be regulated when another form of oversight offers equal or greater effectiveness. Oversight by citizen-elected or municipally-appointed trustees is well-established for waste water, and it is the form of economic and consumer protection oversight used for water districts in the vast majority of states around the country. Whereas most electric, natural gas, and telephone utilities are investor-owned and supply a relatively large number of municipalities, most water utilities are smaller and are governed by a municipality or by an elected board. Thus, in general, water companies are responsible to their consumers rather than to shareholders, and consumers are better able to influence their water company officials through the election process. Regardless of the form of economic regulation, infrastructure safety

provisions remain, in Chapters 25 and 23 (Dig Safe), drinking water safety is guaranteed through existing law, and the court system affords a means-of-last-resort to address grievances. In short, the Public Utilities Commission is not needed.

Currently, the Commission's activities regarding water utilities fall into two categories. First, we assist some utilities in evaluating their cost and rate structure and sometimes approve rates charged to customers. Second, our Consumer Assistance Division (CAD) mediates disputes between customers and utilities.

A utility can change its rates through a variety of processes. Each year, 5-10 utilities change their rates through a Commission proceeding, 10-15 utilities change their rates without a proceeding, and approximately one utility experiences a consumer petition requesting Commission examination of its proposed rate change. Rate case assistance is apparently valuable to some utilities – especially small utilities with limited resources. For others, a rate case proceeding is an unnecessary use of resources and a deterrent to speedy implementation of new rates. Eliminating those unneeded proceedings will improve the efficiency of both the Commission and the utilities that choose to self-regulate.

Our CAD processed approximately 65 consumer complaints from water utilities during 2000. Of these, 35 involved establishing payment arrangements for customers whose bills were in arrears and another 20 resulted in no finding of utility error. Under the proposed bill, consumers in self-regulated utilities would address grievances through a local board or process. We have no reason to believe that, for these utilities, customers' ability to seek redress for utility errors or misconduct would be constrained.

In summary, consumers in self-regulated, publicly owned water utilities would experience all the benefits and risks of locally elected entities, such as school boards, town councils, and waste water districts. We believe that there are benefits to self-regulation and that the risks are adequately addressed in the bill. Allowing the elected or appointed officials of each utility to choose the type of oversight appropriate for their members offers an additional layer of protection for consumers. Therefore, we urge the Committee to vote out LD 1333 as "ought to pass." If you have any questions, please feel free to contact me.

Sincerely,

Marjorie R. McLaughlin
Legislative Liaison